

EXAMINER'S AMENDMENT

An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this Examiner's Amendment was given in a telephone interview with John Genova on November 18, 2009.

Claims 3 and 8 are canceled.

In the specification: On page 1, line 7 "prevention and" is deleted.

On page 6, line 8, "prevention and" is deleted.

On page 9, line 16 "or prophylaxis" is deleted.

REASONS FOR ALLOWANCE

Applicant's Amendment filed July 29, 2009 is acknowledged. Both an amended title and Abstract are noted.

In view of the Declaration under 37 CFR 1.132 by Peter Nordberg on August 22, 2008, the rejections of record under 35 U.S. C. 103 and on the ground of nonstatutory obviousness-type double patenting are withdrawn. The Declaration demonstrates unexpected results concerning the dissolution behavior of the claimed compound as compared to that of Example 1.3, the closest prior art, of Amin, U.S. Patent 6, 313,137.

The rejections of record under 35 U.S.C. 102 are moot subsequent to the cancellation of claim 8.

Accordingly, claims 1, 2, 5 and 7 are allowed in view of the contemporary knowledge of the art.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Phyllis G. Spivack whose telephone number is 571-272-0585. The Examiner can normally be reached from 10:30 to 7 PM.

If attempts to reach the Examiner by telephone are unsuccessful after one business day, the Examiner's supervisor, Ardin Marschel, can be reached 571-272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

November 18, 2009

/Phyllis G. Spivack/
Primary Examiner, Art Unit 1614